IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA NORFOLK DIVISION

Latasha Holloway, et al.,	
Plaintiffs,	Civil Action No. 2:18-cv-0069
v. City of Virginia Beach, <i>et al.</i> ,	
Defendants	

PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

PLAINTIFFS' EXHIBIT 12

Virginia Beach Dept. of Agriculture EEO Plan (DEF11619-11632)

City of Virginia Beach Department of Agriculture EEOP Plan

January 1, 2010 through December 31, 2014



Pictured left to right: Marcy McDevitt, Michelle Foster, and Laurel Wilcox – Program Assistants, Cooperative Extension Office, Department of Agriculture.

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		, .

David E. Trimmer, Director

Date

Prepared by:

Rebecca B. Salmons

Date

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INTRODUCTION

General Overview of Department and Mission

The Department of Agriculture's community vision of the City of Virginia Beach is a unique and diverse community with abundance of protected and well-managed natural resources. This city has a viable agriculture industry as well as an agrarian heritage cherished by its community. Through preservation strategies, education and departmental and community efforts it is the desire to preserve our rural heritage and agrarian culture for future generations, thus providing sustainability to all citizens of Virginia Beach regardless of their race, sex, or national origin.

The Department of Agriculture educates citizens regardless of their race, sex, or national origin on issues pertaining to nutrition, food safety, financial management, family life, and environmental horticulture. Our families are offered opportunities for learning how to better provide a healthy and safe environment. Programs such as 4-H, provide opportunities to learn leadership and citizenship skills to better prepare youth to become successful, contributing members of society. By using researched-based information, citizens actively improve their quality of life for a sustainable "Community for a Lifetime."

The Department of Agriculture's vision is to be a valuable resource to the community in providing life-long learning opportunities through diverse programs to all people groups. Department staff collaborates with internal and external agencies in accomplishing a greater awareness of programs to all citizens in an effort to increase citizen participation in educational opportunities and programs to all people regardless of their race, sex, or national origin. The department is able to recruit, retain, and manage a knowledgeable, efficient, and effective volunteer base to assist in the implementation of educational programming and meeting departmental and organizational goals. The success of our programs is exemplified through the satisfaction of our citizens – resulting in a better informed and knowledgeable community.

The Mission of the Department of Agriculture is to provide leadership, educational opportunities and resources, to conserve and enhance our environmental resources and provide life-long learning for all citizens.

The Department of Agriculture EEOP is a comprehensive document that analyzes the department's workforce in comparison to relevant labor force in the Hampton Roads community. The departmental EEOP is designed to assess the effectiveness of the recruitment, selection, and retention strategies to ensure that there is full and equal representation in the department of males and females regardless of their race, sex, or national origin. The departmental EEOP enables the Director of Agriculture to look critically at its workforce and practices to determine its effectiveness in supporting city initiatives. It is the department's desire to reflect diversity in the

workforce based on the availability of qualified applicants. The Department of Agriculture is proud of the diversity within its workforce and will continue to work diligently to improve any areas of underutilization. The plan and goals will be reviewed and updated annually.

Additionally, the department has aggressively pursued the development of opportunities for women and minority owned business via the Farmers Market resource. This resource works closely with minority and women entrepreneurs as a resource for business attraction and expansion. The Farmers Market venue provides an incubator for entrepreneurs that would not otherwise find affordable avenues to build successful businesses.

The Department of Agriculture's workforce can be described as a group of experienced professionals possessing the knowledge, skills, and abilities, to effectively produce the desired results in guiding the City of Virginia Beach toward achieving its goals. The department is comprised of the following four divisions:

- 1. <u>Directors Office</u>: This division provides overall direction, coordination and administrative support; provides leadership in developing and implementing the Agricultural Reserve Program; provides the agriculture community with technical assistance ensuring that agriculture continues to be a viable segment of the city's economy; provides support to the Agricultural Advisory Commission; assists and provides recommendations to the Planning Department regarding the Comprehensive Plan, compliance with the Chesapeake Bay Area Preservation mandates, Southern Watershed Ordinance, Transition Area, and Open Space; provide recommendations for the future direction of the Farmers Market; provide coordination of city services for agricultural related special events (*such as the Strawberry Festival and Harvest Fair*); install, maintain and manage the Road Side Farm Sign Program; review site plans for projects in the southern portion of the city; assists in preserving the city's agricultural heritage, provide leadership to the Wild Horse Committee; and provide recommendations on rural drainage. Positions include the Director, Rural Community Coordinator, and Executive Assistant II.
- 2. <u>Cooperative Extension</u>: This division provides research based educational programs in the subject areas of agriculture, Environmental Horticulture, Family and Consumer Sciences, and youth development. Positions include four Extension Agents (hired via Virginia Technical Institute), two Administrative Assistants (hired via the Department of Agriculture), and 3 Program Assistants (hired and paid via Virginia Technical Institute).
- 3. Farmers Market: This division provides for the management of the Farmers Market. Activities include rent/fee collection; planning and implementing special events, educational and interpretive programs; development and implementation of a marketing plan; customer relations to all citizens regardless of race, sex, or national origin; supervision of city and contractual staff; overseeing the cleanliness, maintenance, and security of the market; and working with the market's merchants. Positions include, Assistant Manager (the role of Market Manager is the responsibility of the Rural Coordinator in the Administration Division), and an Office Assistant II.

4. <u>Agricultural Reserve Program</u>: This division provides the management of the Agricultural Reserve Program (ARP). The ARP is the city's primary tool for preserving development rights from landowners, and holding them in perpetuity. It is a voluntary program in which a landowner may offer to sell an easement to the city, which then restricts development. The objective of the program is to support the agricultural community, by helping to keep the land base available for farming, by minimizing the impact of residential development in agricultural areas, and reducing the cost of urban infrastructure. The goal is to preserve 20,000 acres in the southern portion of the city. Position includes a Planner II who serves as the ARP Coordinator.

EEOC Job Categories

Based on the guidelines established by the Equal Employment Opportunity Commission EEOC, all job titles for the City of Virginia Beach are assigned to a specific EEO job category/group. The following list represents all fulltime job titles within the Department of Agriculture as of January 1, 2010:

Officials and Administrators - 1

Director of Agriculture - 1

Professionals - 6

Extension Agent - 4 Rural Community Coordinator -1 Planner II - 1

Administrative Support – 5

Assistant Market Manager - 1 Administrative Assistant - 3 Executive Assistant II - 1

Protective Services - 0

Skilled Craft - 3

Cooperative Extension Program Assistants – 3 (Full time other)

Service Maintenance – 0

CURRENT REALITY

As of January 1, 2010, the Department of Agriculture has four budget units with a total of 12 full time City and 3 full time State employees; therefore, Chart A reflects the Job Classification Listing and Workforce by Budget Unit for race, national origin and gender for the entire department.

During calendar year 2009, the Department of Agriculture lost 1 filled position and as of December 31, 2009 experienced a retiree. Due to upcoming budget cuts, the Director opted to not fill the position knowing it would be affected by the upcoming budget reduction proposed for the July 2010 budget.

Commitment and Engagement

The Department of Agriculture does not experience a lot of job turn over; most employees stay on with the department for many years. However, the department is committed to the process of fair hire for everyone regardless of their race, sex, or national origin. The Director encourages diversity training to current staff members and leads/teaches staff by example. EEO training and processes on EEO policies are provided to supervisors and managers.

The Department of Agriculture has many programs that utilize volunteers. Volunteer opportunities are widely advertised and promoted throughout the city. Currently, the department embraces all aspects of Diversity (including and beyond Race, National Origin and Gender) with commitment to members, applicants, and citizens.

Staff and Volunteers are afforded various opportunities for growth and career development via the organization and State certifications regardless of race, national origin, gender or age. Between developmental opportunities and recognition strategies the Department of Agriculture has very slow turnover; thus reflecting an outstanding retention program. Previous employees have predominantly left the department for retirement status but continue to support the department via volunteer opportunities. When new members and volunteers join the Department of Agriculture in fulfilling its mission, every attempt is made to be inclusive of all people groups, welcoming and making every attempt to acclimate them into whatever endeavor they may be fill via structured orientation classes, informed instruction, staff meetings, events and luncheons. Everyone is welcomed and included as part of the Department of Agriculture workforce.

Our Volunteer Resource Manager attends Volunteer Resource meetings and corresponds with the Volunteer Office electronically to keep the department informed of persons with disabilities interested in volunteering for the department. Every consideration is given to filling volunteer as well as career opportunities to all people groups, including disabled and aged.

The Department of Agriculture utilizes the assistance of interns in various areas of need. Most recently, the Farmers Market recruited a volunteer college intern to assist with the development of the upcoming Experiential tours.

With the diversity of our workers, volunteers and citizens, the Department of Agriculture has a high level of expectation of staff and volunteers towards inclusion and sensitivity towards diverse cultures, including but not limited to sex, race, gender and national origin.

High quality customer service skills are taught to everyone providing support to all programs the organization provides via guides, informational staff meetings, and by example. Our staff continually attends classes offered via the Department of Human Resources. E-Learning is also strongly encouraged.

Current Workforce Retention

The Department of Agriculture will work with each existing employee as part of the Department's Workforce Development Plan to encourage career progression within the Department. Each new and existing employee will be given an opportunity to review the catalogue of training opportunities and encouraged to attend.

Staff Development

Knowledge management is vital for the continued success of any dynamic organization. Participation by managers on an annual basis in external learning opportunities will assist in the management of their current knowledge base and serve to expand existing departmental expertise.

It is incumbent upon the Department Director/Division Managers to remain up-to-date regarding twenty-first century innovations in their field of expertise. It is imperative to encourage employees to take advantage of the internal learning and development programs provided by the city each year. Opportunities to attend seminars and workshops geared toward enhancing and updating professional disciplines is strongly encouraged.

Employee participation in learning opportunities can be in the form of correspondence courses, telecommunication courses, webinars, distance learning/online courses, or attendance at colleges and universities as long as all eligibility requirements are met. The City currently has a reimbursement program to defray costs.

Continual participation in both internal and external learning opportunities will serve to leverage employee knowledge, skills, and abilities for a competitive job market.

Job Classification Listing by EEO Job Category for Race, National Origin, and Gender - Full Time - Department Of Agriculture Chart A: Job Classification Listing Effective: December 31, 2009

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<u>Legend:</u> M = Male F = Female

MIN = Minorities W = White

B/AA = Black or African American H/L = Hispanic or Latino

A = Asian NH/PI = Native Hawailan or Pacific Islander AI/AN = American Indian or Alaska Native

Two + = Two or More Races

Chart B: Workforce by Budget Unit

Workforce by Budget Unit for Race, National Origin, and Gender - FullTime and PartTime - Agriculture Department

Effective: December 31, 2009

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Farmers Market (14110)	2	0	2	0	7	0	7	0	0	0	0	0	0
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Agriculture Reserve Program (14310)	1	0	1	0	1	0	1	0	0	0	0	0	0
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Legend:

F = Female M = Male

MIN = Minorities

B/AA = Black or African American W = White

H/L = Hispanic or Latino

NH/PI = Native Hawaiian or Pacific Islander A = Asian

AI/AN = American Indian or Alaska Native Two + = Two or More Races

Workforce Utilization Analysis by Race, National Origin, and Gender and by EEO Job Category - Full Time - Department of Agriculture Effective: December 31, 2009 Population percentages for the workforce, relevant labor market (RLM), and utilization of the lots' em

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Workforce Utilization Analysis - Charts and Graphs

As of December 31, 2009, the Department of Agriculture is divided into four divisional units with a total of twelve fulltime employees.

The department's workforce is presented by organizational units (**Chart A**) and using EEOC Job Classification Listing – Current Data; (**Chart B**) – Workforce by Budget Unit for race, National Origin and Gender – Current Data; and (**Chart C**) Workforce Utilization Analysis by Race, national Origin and Gender and EEO Job Category.

Statistics used for the identification of areas of underutilization will be based on workforce availability rates in the relevant labor market (RLM) and EEOC job groupings of the department's full-time staff (12 City employees and 3 State employees).

A statistical analysis is conducted comparing the department's workforce demographics with US 2000 Census availability rates. Only four of the seven EEOC job categories are used within the Department of Agriculture. Overall, female and minority representation, as of January 1, 2010, are provided in the following analysis:

Officials and Administrators

Overall utilization of females (0%) is below the availability rate of 38.1%; overall utilization of males (100%) is above the availability rate of 60.3 %; overall utilization of minorities (0%) is below the availability rate of 16.2%.

Race and gender underutilization within specific ethnic groups:

- Black/African males: -2.9% based on an availability rate of 2.9%
- Hispanic males: -3.5% based on an availability rate of 3.5%
- Asian/Pacific Islander males: -2.2% based on an availability rate of 2.2%
- American Indian/Alaskan Native males: -0.0 based on an availability rate of 0.0%
- Hispanic females: -2.5% based on an availability rate of 2.5%
- Asian/ Pacific Islander females: -1.3% based on an availability rate of 1.3%
- American Indian/Pacific Islander females: -0.2% based on an availability rate of -0.3%

Professionals

Over all utilization of females (66.7%) is below the availability rate of 51.9%; overall utilization of males (33.3%) is above the availability rate of 46.5%; overall utilization of minorities (16.7%) is below the availability rate of (19%)

Race and gender underutilization within specific ethnic groups:

- White males: -4.8% based on an availability rate of 38.1%
- Black/African males: -3.8% based on an availability rate of 3.8%
- Hispanic males: -1.2% based on an availability rate of 1.2%

- Asian/Pacific Islander males: -3.3% based on an availability rate of 3.3%
- American Indian/Alaskan Native males: -0.1 based on an availability rate of 0.1%
- Hispanic females: -1.3% based on an availability rate of 1.3%
- Asian/ Pacific Islander females: -2.2% based on an availability rate of 2.2%
- American Indian/Pacific Islander females: -0.1% based on an availability rate of 0.1%

Administrative Support

Overall utilization of females (100%) is above the availability rate of 71.5 %; overall utilization of males (0%) is below the availability rate of (27.2%); overall utilization of minorities (20%) is above the availability rate of 35.9%.

Race and gender underutilization within specific ethnic groups:

- White males: -17.4% based on an availability rate of 17.4%
- Black/African males: -7.7% based on an availability rate of 7.7%
- Hispanic males: -0.7% based on an availability rate of 0.7%
- Asian/Pacific Islander males: -0.8% based on an availability rate of 0.8%
- American Indian/Alaskan Native males: -0.1 based on an availability rate of 0.1%
- Black/African females: -2.6% based on an availability rate of 22.6%
- Hispanic females: -1.9% based on an availability rate of 1.3%
- Asian/ Pacific Islander females: -1.8% based on an availability rate of 1.8%
- American Indian/Pacific Islander females: -0.3% based on an availability rate of 0.5%

Skilled Craft

Over all utilization of females (100%) is below the availability rate of 7.1%; overall utilization of males (0%) is above the availability rate of 91.2%; overall utilization of minorities (66.7%) is below the availability rate of (27.8%)

Race and gender underutilization within specific ethnic groups:

- White males: -66.5% based on an availability rate of 66.5%
- Black/African males: -20.9% based on an availability rate of 20.9%
- Hispanic males: -2.0% based on an availability rate of 2.0%
- Asian/Pacific Islander males: -1.3% based on an availability rate of 1.3%
- American Indian/Alaskan Native males: -0.5 based on an availability rate of 0.5%
- Hispanic females: -0.2% based on an availability rate of 0.2%
- Asian/ Pacific Islander females: -0.4% based on an availability rate of 0.4%
- American Indian/Pacific Islander females: -0.1% based on an availability rate of 0.1%

ACCOMPLISHMENTS

Optional Reports

- The Agriculture Department has had no Terminations by Race, National Origin and Gender.
- The Agriculture Department has not had Disciplinary Actions by Race, National Origin and Gender.
- The Agriculture Department has not had any Job Status changes by Race, National Origin and Gender; no promotions, or Career Progressions; however, the Department lost 1 position in the July 2009 Employee Transition Program due to budget cuts; and, one employee retired December 31, 2009, the position was not filled due to being budget reductions.

PLAN OF ACTION

It is the policy of the Department of Agriculture to seek out and employ qualified individuals to perform our departmental mission. It is the policy of the Department to develop and implement an internal monitoring system to ensure our hiring practices are effective in reaching a variety of qualified applicants that reflect our community demographics. The Department of Agriculture recognizes the importance of hiring staff with diverse backgrounds.

The Administrative staff has historically been all female since the inception of the department. This is a reflection of historical societal expectations for clerical positions being predominately female. This is also reflected in the pool of candidates that generally apply for administrative positions. There are four administrative support positions in the department, three White Female and one Black African American.

Recruitment and selection guidelines established for identified target areas and designed to remedy underutilization should be reasonably attainable by means of: 1) developing realistic departmental objectives (based on anticipated job vacancies); 2) conducting aggressive recruitment and advertising efforts within the relevant labor market; 3) using a well defined job related selection job placement system via the Human Resources Department.

Through the implementation of existing/ongoing and new action oriented programs outlined in the City's EEOP, these efforts should serve to enhance the appeal of municipal employment.

In establishing target areas for the elimination of underutilization in recruitment, promotion, transfers, etc. the Director of Agriculture will recognize and support the results of management

activity that could reasonably be expected from putting forth good faith efforts to achieve the objectives of the department's EEOP.

As stated in the city's EEOP guidelines, applicant selection for the elimination of underutilization will occur only from qualified individuals and the use of a valid selection criteria/procedure. Additionally, target areas do not require the hiring or job placement of persons when there are no job vacancies, or the hiring/job placement of an individual who is less qualified to do well on the job over a person better qualified and likely to do well on the job. Job placement/selection will occur only among qualified individuals along with the applicant of valid selection criteria/procedures.

Ads/Recruitment

The Department of Agriculture will make every effort to recruit and promote minorities and women in all future job openings. This recruitment will follow the processes set by our Department of Human Resources standards which include advertising in minority publications along with all the major newspapers in the state. Whenever appropriate, recruitment will be done regionally and/or nationally by advertising in professional publications and newspapers.

Dissemination

The EEOP for the Department of Agriculture will be given to all new employees during the Departmental orientation process.

The EEOP will be discussed periodically in meetings with executive management and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation.